

**Chapter 8**

**BUSINESS REGULATIONS**

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**Article 8-1**

**BUSINESS LICENSE**

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**Section 8-1-1 Definitions**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- A. “Canvasser” is a Person who attempts to make personal contact with a resident or business person at his/her residence, place of business or other venue without prior specific invitation or appointment from the resident or business person, for the primary purpose of (i) attempting to enlist non-monetary support for or against a particular religion, philosophy, ideology, political party, issue or candidate, or other cause, even if incidental to such purpose the Canvasser accepts a voluntary donation for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- B. “Commercial” means and includes the sale of goods or services for monetary compensation, consideration or profit.
- C. “Finance Director” means the person designated by the Town Manager to be the chief financial officer for the Town or the authorized designee of the chief financial officer.
- D. “Peddler” is a Person who attempts to make personal contact with a resident or business person at his/her residence, place of business or other venue without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service for a Commercial purpose.
- E. “Person” shall mean an individual, corporation, partnership, limited liability company, incorporated association and any other legal entity.
- F. “Solicitor” is a Person who attempts to make personal contact with a resident or business person at his/her residence, place of business or other venue without prior specific invitation or appointment from the resident or business person, for the primary purpose of (i) attempting to

solicit funds for a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political, religious or other non-commercial purpose, or (ii) distributing a handbill or flyer advertising a Commercial event or service.

(16-01, Amended, 08/18/2006)

### **Section 8-1-2 License Required**

- A. It is unlawful for any Person or other entity, whether as principal or agent, either for himself/itself or for another Person or entity, or as a member of any firm or entity, to commence, practice, transact or carry on any trade, calling, profession, occupation or business within the Town limits without first having procured a license from the Town to do so and without complying with all regulations of such trade, calling, profession, occupation or business as specified or required by the United States Government or the State of Arizona and its political subdivisions. No license for businesses located within the Town shall be issued without verification by the Zoning Administrator or the authorized designee that no violation of the Town's zoning regulations will occur by such issuance.
- B. The practicing or carrying on of any trade, calling, profession, occupation or business by any Person or entity without first having procured a license from the Town to do so, or without complying with any and all regulations of such trade, calling, profession, occupation or business, as required by other law or by this Article, shall constitute a separate violation of this Article for each and every day that such trade, calling, profession, occupation or business is practiced, carried on or conducted within the Town.
- C. The only exceptions to the licensing requirements of this Section are:
  - 1. Non-profit (providing a valid tax exemption determination from the Internal Revenue Service), educational institutions, fraternal and service clubs, bona fide religious organizations, and agencies of any federal, state or local governments.
  - 2. Non-profit private clubs where a basic membership fee covers the cost of the use of facilities.
  - 3. Any profession exempted from local licensing by State law.
  - 4. Garage sales, including carport, estate sales, and yard sales, so long as such sales are (a) carried on wholly within the property lines on which the dwelling unit is located, (b) held for the purpose of selling items that are primarily surplus to the residential use, (c) operated for not more than three consecutive days and held not more than four times within a calendar year at the same dwelling unit, (d) limited to the hours between 7:00 a.m. and 5:00 p.m. and (e) advertised using signage in conformance with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the Town of Fountain Hills.
  - 5. Persons or entities solely providing delivery of goods purchased from locations outside the corporate limits of the Town.
- D. Nothing in Subsection 8-1-2(C) above shall prohibit the Town from requiring a business license from any person or entity entering into any contractual relationship with the Town.

- E. The penalty for operating without the license required by this Article shall be set forth in the Town's fee schedule, as adopted by the Town Council as part of the Town's annual budget or by separate resolution. No license shall be issued or renewed until all penalties and fees have been paid in full.
- F. A person or entity found to have commenced, practiced, transacted or carried on any trade, calling, profession, occupation or business within the Town without complying with this Section 8-1-2 shall not be permitted to receive a license under this Chapter until the full amount of the license fee, plus any penalty amount, as set forth in the Town's fee schedule, has been paid.

(16-01, Amended, 08/18/2016)

### **Section 8-1-3 Application and Issuance**

- A. The Finance Director shall, upon receipt of a properly completed application for a business license, verification of the data contained thereon and payment of all applicable fees and charges, prepare and issue a license under this Article. Each license shall include the amount charged for the same, the expiration date, the name of the Person or entity to which it is issued, the trade, calling, profession, occupation or business licensed and the location or place of business where the trade, calling, profession, occupation or business is to be carried on, transacted or practiced.
- B. A mistake made by the Finance Director or the authorized designee in issuing any license or collecting the correct license fee from any Person or entity shall not prevent the Town from (1) collecting the correct amount of fee or (2) revoking any license erroneously issued and refunding the fee collected.
- C. No greater or lesser amount of money shall be charged or received by the Finance Director for any license than is provided for in this Article, and no license shall be issued for any period of time other than as provided herein.
- D. All charges for a license required by this Article shall be paid in advance and in lawful money of the United States of America at the Town Finance Department.
- E. Every application shall be accompanied by the appropriate application fee in an amount set forth in the Town's fee schedule, as adopted by the Town Council as part of the Town's annual budget or by separate resolution. License application fees are non-refundable.

(16-01, Amended, 08/18/2016)

### **Section 8-1-4 Term of Licenses; Renewal**

- A. A license issued pursuant to this Article shall be valid until the expiration date on the face of the license and may be renewed for subsequent one-year periods during such times as the Person or entity is in compliance with this Article and all fees have been paid. The renewal charge for annual licenses provided herein shall become due and payable prior to expiration of the then-current license period.
- B. When the fee for any license renewal required hereunder is unpaid from and after the license expiration date, such fee shall be delinquent and the Finance Director or the authorized

designee shall add thereto an amount equal to 25% of said fee, as a penalty.  
(16-01, Amended, 08/18/2016)

**Section 8-1-5 Number of Licenses**

- A. A separate charge for a license shall be paid for each branch establishment or separate place of business in which any Person or entity carries on, transacts or practices a trade, calling, profession, occupation or business.
- B. When more than one trade, calling, profession, occupation or business is carried on, transacted or practiced by the same Person or entity, whether at one fixed place of business or without any fixed place of business, one license shall be required for each trade, calling, profession, occupation or business (as determined by the number of distinct tax identification numbers).
- C. When more than one trade, calling, profession, occupation or business is carried on, transacted or practiced by more than one Person or entity at a single fixed place of business, a separate license shall be required for each Person and entity for each trade, calling, profession, occupation or business (as determined by the number of distinct tax identification numbers).

(16-01, Amended, 08/18/2016)

**Section 8-1-6 License to be Exhibited**

- A. Each Person or entity having a license and having a fixed place of business with the Town shall keep said license, while in force, in a conspicuous location within the place of business.
- B. Each Person or entity having a license and having no fixed place of business within the Town, or the Person or entity's sole representative, shall carry such license with him at all times while engaged in any activity for which the license was issued. A Person or entity acting for a licensed Person or entity and not being the sole representative acting for such Person or entity may carry with him a copy of the license plainly marked or stamped "Duplicate."
- C. Each Person or entity having a license shall produce and exhibit the same whenever requested to do so.

(16-01, Amended, 08/18/2016)

**Section 8-1-7 Inspector of Licenses**

- A. The Finance Director shall be inspector of licenses and may designate, with approval of the Town Manager, such other assistant inspectors as may be required to enforce this Chapter 8.
- B. Each assistant inspector shall report to the Finance Director the name of any Person or entity carrying on, transacting or practicing any trade, calling, profession or business within the Town without first having obtained a license as required by this Article.

(16-01, Amended, 08/18/2016)

**Section 8-1-8 Duties and Powers of Inspectors**

A. The Finance Director, or the authorized designee, each in the discharge and performance of his duties, shall have and exercise the following powers:

1. To issue a citation for any violation of the provisions of this Chapter.
2. To enter, free of charge and at any reasonable time, any place of business for which a license is required by this Article and to demand exhibition of the license for the current period of time, provided such entry shall be in accordance with the inspection provisions of Ariz. Rev. Stat. § 9-831 *et seq.*, as amended. If such Person or entity fails to exhibit such license, such Person or entity shall be liable to the penalties provided for violation of this Code.

(16-01, Amended, 08/18/2016)

**Section 8-1-9 Transfer of License**

A license issued under the provisions of this Article may not be assigned or transferred to any other Person or entity without first obtaining permission from the Finance Director.

(16-01, Amended, 08/18/2016)

**Section 8-1-10 Business License Fees**

The Town shall charge fees for the issuance or renewal of any business licenses under this Chapter in such amounts as approved by the Town Council by separate resolution or by the fee schedule adopted as part of the Town's annual budget. No license fee shall be prorated.

(16-01, Amended, 08/18/2016; 09-08, Amended, 07/02/2009)

**Section 8-1-11 Restrictions; Suspension; Revocation**

A. Licenses issued under the provisions of this Chapter may be restricted, suspended or revoked by the Finance Director, after notice and hearing as set forth in Sections 8-1-11 (B) and (C) below, for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the license application.
2. Fraud, misrepresentation or false statement made in the course of carrying on the business.
3. Any violation of this Chapter.
4. Conviction of any crime (misdemeanor or greater) within the time period beginning two years prior to license issuance and continuing until the license is terminated.
5. Conducting a business in violation of any Town ordinance, county ordinance or federal or state law relating to the public health, safety and welfare.

- B. Notice of the hearing for restrictions, suspension or revocation of a license shall be given in writing, by the Finance Director, setting forth specifically the grounds for the restrictions, suspension or revocation and the time and place of the hearing. Such notice shall be mailed to the licensee at the address listed on the business license application at least 10 days prior to the date set for the hearing. The mailing of such notice shall constitute proper notice to the licensee.
- C. After reviewing the information submitted at the hearing, the Finance Director shall do one of the following:
  - 1. Restrict, suspend or revoke the license as set forth in the notice.
  - 2. Modify the restriction, suspension or revocation in the notice.
  - 3. Overturn the determination in the notice.

(16-01, Amended, 08/18/2016)

### **Section 8-1-12 Appeals**

- A. Any Person or entity aggrieved by the denial of an application for license, by the restrictions placed upon the license or by the suspension or revocation of such license, shall have the right of appeal. Such appeal shall be taken by filing with the Town Manager or the authorized designee, within 14 days after such denial, restriction, suspension or revocation, a written statement setting forth fully the grounds for the appeal.
- B. The Town Manager or the authorized designee shall appoint a neutral hearing officer and set a time and a place for hearing of such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided for notice of a hearing on suspension or revocation.
- C. The burden of proof at the hearing shall be on the applicant to establish, by a preponderance of the evidence, that he or she meets all requirements for holding a license under this Article. The hearing officer shall hear such testimony and consider such evidence as is relevant to the determination of such issues. The hearing officer shall not be bound by technical rules of evidence or procedure in conducting the hearing.
- D. The hearing officer shall render a written decision within 30 days after the hearing is concluded based on the evidence presented by the Town and the applicant. The decision of the hearing officer shall be final.

(16-01, Amended, 08/18/2016)

### **Section 8-1-13 Violations; Penalties**

- A. Civil (non-criminal) violations. It shall be a civil (non-criminal) violation, punishable as set forth in Article 1-8 of this Code, for a Person to do any of the following:
  - 1. Fail to perform any act or duty required by any provision of Article 8-1 through 8-3, or Article 8-5 of this Chapter.
  - 2. Violate the terms and/or conditions of any license issued under the provisions of Article

8-1 through 8-3, or Article 8-5 of this Chapter.

- B. Criminal violations. It shall be a criminal violation, punishable as set forth in Article 1-8, for a Person to do any of the following:
1. Intentionally or purposely fail to perform any act or duty required by any provision of this Article.
  2. Fail to perform any act or duty required by any provision of this Chapter and such Person has been previously found responsible, civilly or criminally, for a violation of this Chapter.
  3. Fail to perform any act or duty required by any provision of Article 8-4 of this Chapter.
  4. Violate the terms and/or conditions of any license issued under the provisions of Article 8-4 of this Chapter.
- C. Enforcement of judgments. Any judgment for abatement, restitution or civil (non-criminal) penalties taken pursuant to this Chapter may be enforced as any other civil judgment.
- D. Violations not exclusive. Violations of this Chapter are in addition to any other violation enumerated within this Code and in no way limit the penalties, actions or procedures which may be taken by the Town for any violation of this Chapter which is also a violation of any other provision of this Code or any other applicable law. The remedies specified herein are cumulative and the Town Manager, or the authorized designee, or the Town Prosecutor, may proceed under these or any other remedies authorized by law.

(16-01, Amended, 08/18/2016)

#### **Section 8-1-14 Severability**

It is hereby declared to be the intention of the Town Council that the articles, sections, paragraphs, sentences, clauses, phrases and words of this Article are severable, and if any article, section, paragraph, sentence, clause, phrase or word(s) of this Article shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, phrases and words of this Article.

(16-01, Amended, 08/18/2016)



**Article 8-2**

**PEDDLERS, CANVASSERS AND SOLICITORS**

**Sections:**

- 8-2-1 Purpose**
- 8-2-2 Business License Required**
- 8-2-3 Peddler/Solicitor License Requirements**
- 8-2-4 Exemptions**
- 8-2-5 Application Procedure**
- 8-2-6 License Issuance Standards**
- 8-2-7 License Expiration; Non-transferability; Issuance and Renewal**
- 8-2-8 Posting License; Issuance of Identification Cards**
- 8-2-9 Hours of Operation**
- 8-2-10 Trespass**
- 8-2-11 Written Receipts Required**
- 8-2-12 Location for Transaction of Business Regulated**
- 8-2-13 Creation of Undue Noise Prohibited**
- 8-2-14 Display of Licenses**
- 8-2-15 License Revocation or Suspension; Appeal**

**Section 8-2-1 Purpose**

The Town Council desires to regulate the activities of Peddlers, Solicitors and Canvassers within the Town in a manner so as to protect against fraudulent and criminal activity and to ensure to the Town's residents and business population the maximum amount of privacy and security in their homes and places of business that is permissible in light of court decisions mandating certain access to residents and residential areas and businesses and business areas by Peddlers, Solicitors and Canvassers. It is, therefore, the intent of the Town Council in enacting this Article to recognize the potential for fraudulent and criminal activity in connection with door-to-door peddling, soliciting and similar activities, as well as the unique character and nature of the Town's residential and business neighborhoods, while providing opportunity for Peddlers, Solicitors and Canvassers as mandated by law. This Article should be interpreted so as to be in conformity with relevant state and federal court decisions including, but not limited to, *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton*, 536 U.S. 150, 122 S. Ct. 2080, 153 L. Ed. 2d 205 (2002).

(16-01, Amended, 08/18/2016)

**Section 8-2-2 Business License Required**

No Person may apply for a license under this Article without first obtaining a business license under Article 8-1 above.

(16-01, Amended, 08/18/2016)

**Section 8-2-3 Peddler/Solicitor License Requirements**

No Person shall act as a Peddler or Solicitor within the Town limits without first obtaining from the Town a license in accordance with this Article. A Canvasser is not required to have a license.

(16-01, Amended, 08/18/2016)

**Section 8-2-4 Exemptions**

- A. The provisions of this Article shall not apply to the following:
1. Payments required by law to be collected or paid.
  2. Payments to or from governmental agencies.
  3. Public utility employees in the performance of their employment duties.
  4. Persons engaging in the sale of newspaper or magazine subscriptions.
  5. School children engaging in school authorized or sponsored fundraising activities.
  6. Merchants or their employees delivering goods in the regular course of business.
  7. Subject to the organization providing a valid tax exemption determination from the Internal Revenue Service, charitable, religious, patriotic or philanthropic organizations, except as covered under the appropriate section below.
  8. Garage sales, including carport, estate sales, and yard sales, so long as such sales are (a) carried on wholly within the property lines on which the dwelling unit is located, (b) held for the purpose of selling items that are primarily surplus to the residential use, (c) operated for not more than three consecutive days and held not more than four times within a calendar year at the same dwelling unit, (d) limited to the hours between 7:00 a.m. and 5:00 p.m. and (e) advertised using signage in conformance with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the Town of Fountain Hills.

(16-01, Amended, 08/18/2016; 09-08, Amended, 07/02/2009)

**Section 8-2-5 Application Procedure**

- A. Filing an application. A written and signed application for a Peddlers or Solicitors license shall be filed with the Finance Director, and the Finance Director shall, in conformance with the standards set forth in this Article, either grant or deny the requested license. In the event the Finance Director fails to act upon an application within the time prescribed herein, the license shall be deemed denied.
- B. Contents of application. An application for a Peddler or Solicitor license shall include the following information:
1. If the applicant is an individual:
    - a. The name, address, telephone number, date of birth, physical description, social security number and two satisfactory photographs (approximately one inch by one inch, taken within 60 days prior to filing the application) of the individual applying for the license. One of the required photographs will be attached to the applicant's identification card issued pursuant to Section 8-2-8 below, and the other will be retained by the Finance Director.

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- b. The name, address, and telephone number of the entity holding the business license for which the applicant will be conducting the licensed activity.
  - c. The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by the applicant to conduct the licensed activity.
  - d. Whether the applicant has used or been known by any other names or aliases within five years prior to the date that the application is submitted.
  - e. Whether the individual applicant has been convicted of any felony within five years prior to the date that the application is submitted.
  - f. Signed National Background Screening Consent Form
2. If the applicant is not an individual:
- a. The applicant's correct business or organization name, federal employer's tax identification number or social security number, Fountain Hills business license number, address and telephone number for its principal office.
  - b. The name, address, telephone number, date of birth, social security number, physical description and two satisfactory photographs (approximately one inch by one inch, taken within 60 days prior to filing this application) of each employee or agent who will be conducting the licensed activity. One of the required photographs will be attached to the employee's or agent's identification card issued pursuant to Section 8-2-8 below, and the other will be retained by the Finance Director.
  - c. The motor vehicle make, model, year, color and state license plate number of any vehicle that will be used by the applicant or the applicant's employees or agents to conduct the licensed activity.
  - d. Whether any officer, director, general partner, managing member or other person with authority to participate directly and regularly in the management of the applicant's business, or any employee or agent who will be conducting the licensed activity, has used or been known by any other names or aliases within five years prior to the date that the application is submitted.
  - f. Whether any officer, director, general partner, managing member or other person with authority to participate directly and regularly in the management of the applicant's business, or any employee or agent who will be conducting the licensed activity, has been convicted of any felony within five years prior to the date that the application is submitted.
3. In the case of an application for a Peddlers license, a complete description of the goods or services to be sold in the Town, together with information describing the sales methods to be used and a copy of any written materials that will be furnished to residents or businesses.
4. In the case of a Solicitors license, information describing the methods to be used to solicit funds and a copy of any written materials that will be furnished to residents or businesses

for Commercial purposes.

5. The length of time desired for the license (not to exceed 90 days).
  6. The signature of the applicant.
  7. Signed National Background Screening Consent Form
- C. Change in information. If, while any application is pending, or during the term of any license granted hereunder, there is any change in the information set forth in the application, the applicant shall notify the Finance Director in writing thereof within 24 hours after such change.
- D. Filing Fee. At the time of filing the application, the non-refundable license fee, including any background check/investigation fees, must be paid in the amount set forth in the Town's fee schedule adopted as part of the annual budget or by separate resolution.
- E. Form of license. Licenses issued under this Article shall bear the name and address of the business to which the license is issued, the number of the license, dates within which the licensee may conduct the licensed activities. All licenses must be signed by the Finance Director.
- (16-01, Amended, 08/18/2016)

#### **Section 8-2-6 License Issuance Standards**

- A. No individual shall be issued a license under this Article if such individual:
1. Knowingly makes any false or misleading statement in the course of applying for or renewing a license.
  2. Has been convicted of any felony involving dishonesty, deceit, theft, assaultive conduct or sexual misconduct within five years prior to the date that the application is submitted.
  3. Is under the age of 18 years.
  4. Has been denied a license required by this Article or had such a license revoked, for a period of six months following the final denial or revocation decision.
- B. No Person that is not an individual shall be issued a license under this Article if any of the following individuals would be disqualified from being issued a license under subsection (A):
1. Any officer or director, or employee or agent that will be conducting the licensed activity, of an applicant that is a corporation.
  2. Any general partner, or employee or agent that will be conducting the licensed activity, of an applicant that is a partnership.
  3. Any managing member, or employee or agent that will be conducting the licensed activity, of an applicant that is a limited liability company.
  4. Any person with authority to participate directly and regularly in the management of the

applicant's business, or employee or agent that will be conducting the licensed activity, of an applicant that is any other legal entity.

- C. No license shall be issued until the required background investigation is complete.  
(16-01, Amended, 08/18/2016)

### **Section 8-2-7 License Expiration; Non-transferability; Issuance and Renewal**

- A. Any license issued under this Article shall be valid only for the period set forth on the face of the license, which shall not exceed 90 days.
- B. No license issued under this Article shall be transferable between persons.
- C. No license shall be issued or renewed under this Article unless the licensee is in full compliance with all provisions of this Code at the time of renewal.  
(16-01, Amended, 08/18/2016)

### **Section 8-2-8 Posting License; Issuance of Identification Cards**

The license issued to the individual or corporate licensees hereunder shall be posted in a conspicuous place if such licensees are using a vehicle or building. The Finance Director shall issue an identification card to each individual licensee having upon it the pertinent information contained in such license. Agents and representatives of corporate and firm applicants shall be issued similar identification cards. All such cards shall be shown upon request.  
(16-01, Amended, 08/18/2016)

### **Section 8-2-9 Hours of Operation**

It shall be unlawful for any Peddler, Solicitor or Canvasser to enter upon any residential premises places of business or other venues for the purpose of peddling, soliciting or canvassing earlier than 9:00 a.m. of any day or after 7:00 p.m. or sunset, whichever is earlier, of any day. This Section shall not be interpreted to grant any individual permission to enter upon private property.  
(16-01, Amended, 08/18/2016)

### **Section 8-2-10 Trespass**

It shall be unlawful for any Peddler, Solicitor or Canvasser to enter upon any residential premises, place of business or other venue for the purpose of peddling, soliciting or canvassing where, in public view, a sign posted indicating "No Peddlers, Solicitors or Canvassers", "Do Not Disturb", "No Trespassing", or other sign indicating that the residents or business persons do not wish their privacy to be disturbed.  
(16-10, Amended, 08/18/2016)

### **Section 8-2-11 Written Receipts Required**

Any Peddler or Solicitor receiving money or anything having a value of 10 dollars or more from any

person under a sale or goods or service, or solicitation of funds made pursuant to a license issued hereunder shall give to such person or business a written receipt, signed by the Peddler or Solicitor, showing plainly the name and license number of the Person under whose license the sale or solicitation is conducted, and the date and the amount received.

(16-01, Amended, 08/18/2016)

### **Section 8-2-12 Location for Transaction of Business Regulated**

No license issued hereunder shall grant an exclusive right to any location in the public street or park, nor shall any licensee be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this Article, the judgment of the Finance Director, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. No flyers or handbills may be left on unattended vehicles. Flyers or handbills must be hand-delivered to individuals, and may not be left on unoccupied residences or places of business.

(16-01, Amended, 08/18/2016)

### **Section 8-2-13 Creation of Undue Noise Prohibited**

No licensee nor any person in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the Town or upon any private premises in the Town where sound produced therefrom can be plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(16-01, Amended, 08/18/2016)

### **Section 8-2-14 Display of Licenses**

At all times that an individual is conducting activities subject to a license under this Article within the Town, such individual shall carry on his or her person a copy of the license issued by the Town for the licensed activities. Such individual shall display the copy of the license upon request.

(16-01, Amended, 08/18/2016)

### **Section 8-2-15 License Revocation or Suspension; Appeal**

A license requested or granted under this Article may be denied, restricted, suspended or revoked, and the applicant or licensee may appeal such denial, restriction, suspension or revocation according to the procedure set forth in Article 8-1 of this Code.

(16-01, Amended, 08/18/2016)

**Article 8-3**

**SPECIAL EVENTS**

**Sections:**

- 8-3-1 Purpose and Intent**
  - 8-3-2 Definitions**
  - 8-3-3 Permit Required**
  - 8-3-4 Exemptions**
  - 8-3-5 Applications**
  - 8-3-6 Fees and Deposits**
  - 8-3-7 Criteria for review and approval**
  - 8-3-8 Special Event calendar requirements**
- Section 8-3-1 Purpose and Intent**

The Town Council acknowledges that Special Events potentially enhance the lifestyle of the citizens of Fountain Hills and create unique venues for expression, entertainment, and business that are not otherwise provided within the framework of the Town Code. The purpose of Article 8-3 is to establish an administrative process for permitting and regulating certain temporary activities conducted on public property or private property when public safety is impacted. This Article is intended to provide fair and reasonable regulations governing the time, place, and manner in which a Special Event may take place, and in doing so, protect the health, safety and welfare of the public.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Deleted and Replaced; 01-09, Added, 05/17/2001, Adopted)

**Section 8-3-2 Definitions**

In this Article, unless the context otherwise requires:

- A. “Block Party” means the closure of a short cul-de-sac or a limited-portion of a two-lane local roadway for a period of less than six hours for the purpose of a neighborhood gathering.
- B. “Charitable Nonprofit Organization” means any person(s), partnership, association, corporation or other group or entity that is exempt from federal taxation (must provide copy of a valid determination letter from the Internal Revenue Service) and whose activities are conducted for unselfish, civic or humanitarian motives, or for the benefit of others, and not for political or Commercial gain of any private individual or group, and may include, but shall not be limited to patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, church, athletic or medical activities.
- C. “Farmer’s Market”, “Bazaar Days”, “Market Days”, “Sidewalk Sale”, etc. means any outside retail activity on public property or on private property in a commercially zoned district that is temporarily extended beyond the permanent venue/site of day-to-day business.
- D. “Grand-fathered Event” means an event that has annually occurred in the community for a period exceeding five consecutive years and continues to provide a significant benefit to local organizations, clubs, associations, community groups or the community as a whole.

- E. “Holiday Event” means an event that is related to a recognized holiday or season and includes the Thanksgiving Day Parade, the Sunrise Easter Service at Fountain Park, the July 4th celebration at Fountain Park, and the Holiday Lighting activities on the Avenue of the Fountains.
- F. “Special Event” means any event that will take place on Town property, including but not limited to parks, open space, streets, sidewalks or rights-of-way, or on private property, and which by its nature could cause a significant disruption of pedestrians or vehicular traffic in the area and/or that requires traffic safety measures. An event is not a “Special Event” for the purposes of this Article if all of the following are true: (1) the event takes place on private property, (2) the event does not require the closure of any Town street, sidewalk or right-of-way, and (3) the event does not require any municipal services beyond the currently existing, permanent, in-ground infrastructure.
- G. “Special Event Committee” means the group of Town staff members designated by the Town Manager that is charged with (1) reviewing Special Event applications for compliance with the Town Code and (2) recommending Special Events for approval by the Town Manager.
- H. “Sponsor” means the applicant, organizer, operator or principal agent who is responsible for all aspects of the Special Event’s planning, implementation and conduct.  
(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Deleted and replaced; 01-09, Added, 05/17/2001)

### **Section 8-3-3 Permit Required**

No Person or entity shall engage in, participate in, aid, form or start any Special Event as defined in this Article without first obtaining a Special Event permit issued by the Town. A Special Event permit application must be filed prior to or in conjunction with a Special Event Liquor License application, as set forth in Article 8-5 below. Failure to comply with this requirement will constitute a civil violation punishable as set forth in Article 1-8 of this Code.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Deleted and replaced; 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-4 Exemptions**

As long as the following activities are in compliance with all Town codes, ordinances and regulations, they are exempt from the Special Event permitting requirements of this Article:

- A. “Block Party” as defined in Section 8-3-2 of this Article. Block Party events are exempt from the Special Event process but do require the administrative approval of a right-of-way encroachment permit from the Town.
- B. “Farmer’s Market”, “Bazaar Days”, “Market Days”, “Sidewalk Sale”, as defined in Section 8-3-2 of this Article. Said activities require the application and issuance of a temporary use permit from the Development Services Department pursuant to the Town’s Zoning Ordinance, Section 5.16.
- C. Garage sales, including carport, estate sales, and yard sales, so long as such sales are (1) carried on wholly within the property lines on which the dwelling unit is located, (2) held for the purpose of selling items that are primarily surplus to the residential use, (3) operated for not more than three consecutive days and held not more than four times within a calendar year at the same



dwelling unit, (4) limited to the hours between 7:00 a.m. and 5:00 p.m. and (5) advertised using signage in conformance with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the Town of Fountain Hills.

- D. Construction activity within the public rights-of-way that has encroachment permits approved and issued by the Development Services Department.
- E. Holiday sales that are related to a state or nationally recognized holiday or season such as Christmas tree or pumpkin sales. Holiday sales must be set up and conducted in one location and obtain a temporary use permit through the Development Services Department.
- F. Fund-raising Special Events held by Charitable Nonprofit Organizations that meet the following criteria:
  - 1. The fund-raising Special Event shall be carried on entirely within a building, or if outdoors, entirely within a clearly defined/designated piece of public or private property. If the fund-raising Special Event involves outdoor activity, such activity shall be limited to six outdoor Special Events per year per organization.
  - 2. All proceeds derived from the Special Event shall go to one or more Charitable Nonprofit Organization(s).
  - 3. Adequate parking must be available for the fund-raising Special Event. If outdoor Special Events occupy more than 25% of the area normally used for parking, creating the need for off-site parking and the possibility of traffic or safety hazards, Town officials shall be notified to determine if Town services are required. If the Town Manager or the authorized designee determines that Town services are required, the fundraising Special Event shall be subject to a Special Event permit.
  - 4. Signs must comply with the sign regulations as designated in Chapter 6 of the Zoning Ordinance for the Town of Fountain Hills.
  - 5. If the fundraising Special Event involves an activity that would typically require a temporary use permit under the Town's Zoning Ordinance, a temporary use permit must be obtained prior to the Special Event.
- G. A governmental, educational or religious organization acting within the normal course and scope of its typical functions or activities.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Deleted and replaced; 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-5 Applications**

- A. Applications for Special Event permits shall be made on forms furnished by the Town. Every application shall be accompanied by the appropriate application fee in an amount set forth in the Town's fee schedule, as adopted by the Town Council as part of the Town's annual budget or by separate resolution.
- B. If the Special Event is designed to be held by or for any Person other than the Sponsor, the Sponsor for such permit shall file with the application a communication in writing from the Person proposing to hold the Special Event, authorizing the Sponsor to apply for the permit on

his/its behalf.

- C. All applications for Special Events must be completed and submitted to the Town no less than 90 days prior to the Special Event in order to be considered for scheduling on the Special Event calendar as outlined in Section 8-3-8 below. An application will not be deemed complete unless all related Special Event Liquor License applications are submitted at the same time as the Special Event application.
- D. The application for a Special Event permit shall set forth, at a minimum, the following information:
  - 1. The name, street address, telephone number and email address of the Person seeking to conduct the Special Event.
  - 2. If the Special Event is to be conducted for, on behalf of, or by an organization or business, the name, physical address and telephone number of the headquarters of the organization, the names of the principal persons responsible for the organization, the federal tax ID number of the organization, and email addresses for the principal contacts of the organization.
  - 3. The name, physical address, work and home telephone numbers and email address of the on-site Special Event manager.
  - 4. The name, physical address, telephone number and email address of the promoter and Sponsor of the Special Event, if different than the applicant.
  - 5. If the Special Event involves sponsorship or participation of a Charitable Nonprofit organization, the organization's name, federal employer's tax identification number or determination of tax exempt status, physical address, telephone number and email address.
  - 6. The name of the Special Event and the location where the Special Event is to take place. If the Special Event is on private property, the property owner's name, telephone number, email address, and a written acknowledgement from the owner granting permission for use of the property. If applicable, the location shall include the route to be traveled, the starting and termination points, and any closures of streets, sidewalks or rights-of-way requested. A site plan of the Special Event area must be included with the application.
  - 7. A parking plan showing available parking that is adequate to accommodate the anticipated attendees of the Special Event. If parking is to be on private property, written proof of permission of the property owner must be included with the application. Parking on the property must be adequate to serve any existing permanent uses as well as the Special Event use.
  - 8. A description of the Special Event including activities, anticipated attendance, entertainment, and type of retail sales, if any. If there will be vendors, artists or concessionaires, supply a list including business names, owner names, booth numbers, addresses, Arizona state sales tax number (TPT number) and Fountain Hills business license numbers no later than 10 days prior to the Special Event. Any changes or additions shall be submitted to the Town prior to the end of the first day of the Special

Event.

9. The date and hours when the Special Event is to be conducted, including set up and take down time.
10. The approximate number of persons, vehicles and equipment, if any, that will be involved in the Special Event, including, without limitation, description of the vehicles or equipment. If animals are to be included in the Special Event, the applicant must specify the types of animals to be included, the areas to be used as pens for the animals and any vehicles to be used for transporting the animals.
11. Information regarding the amount and type of advertising that will be done to promote the Special Event.
12. Information on specific features of the Special Event including, but not limited to, tents, canopies, open flames and cooking, fireworks, temporary fencing, temporary structures, first aid services, port-a-johns, waste control, generators, carnival/amusement rides, lighting, signs/banners, and inflatables. Information should include the company name, physical address, contact name, telephone number and email address of each service provider. Special Event features may require inspection and/or special permits from building, engineering, fire, and/or health departments. The site of the Special Event must be adequately served by utilities and sanitary facilities.
13. Description and location of Town infrastructure (i.e. electric and/or water) that will be needed for the Special Event.
14. A map and/or site plan clearly depicting the location of all signage, directional and/or promotional, that will be used in conjunction with the Special Event, as well as a plan for ensuring signage shall not be posted earlier than two weeks prior to the first day of the Special Event and must be removed within 48 hours following the Special Event's conclusion.
15. Information on Special Event security and emergency medical services including company names, physical addresses, contacts, telephone numbers, email addresses and scheduled hours personnel will be at the Special Event.
16. Information regarding the serving of alcohol, if any, at the Special Event and copies of the appropriate state Liquor Licenses/applications, where applicable.
17. An estimate of all non-permit fees anticipated in connection with the Special Event, as detailed in Section 8-3-6 of this Article. All applicable Town Departments shall review the application and recommend stipulations that must be met by the applicant, at his own cost, to insure the health, safety and welfare of the public. Each Town Department shall provide cost estimates or services to be provided in connection with the Special Event. These fees, where applicable, include but are not limited to fees for law enforcement, traffic engineering services, field services, cleaning/damage deposits, and building safety inspections.
18. A certificate of insurance naming the Town as an additional insured must be on file with the Town at least 10 days prior to the start of the Special Event. Such insurance is to be in amounts determined necessary by the Town Manager in his sole discretion, but in no

event less than \$1 million combined single limit personal injury and property damage covering owned and non-owned auto liability, premise liability and comprehensive general, including product liability where indicated. An additional liquor legal liability policy, in an amount of \$1 million, unless a different amount is approved by the Town Manager in his sole discretion, naming the Town as an additional insured, will be required for Special Events serving alcoholic beverages. All insurance shall be provided by companies licensed to do business, in Arizona.

19. A certification statement including a liability release and indemnification agreement signed by the Sponsor's authorized agent. The statement shall include the applicant's acknowledgment that all transactions in the course of the Special Event are subject to any applicable Town, county and/or state sales tax and assurance that all Special Event participants shall be notified regarding sales tax regulations.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Deleted and replaced; 01-09, Added, 05/17/2001, Adopted)

### **Section 8-3-6 Fees and Deposits**

Any application for a Special Event, including Special Events held by Charitable Nonprofit Organizations, will be subject to the applicable deposits and fees in amounts set forth on the fee schedule approved by the Town Council as part of the Town's annual budget or by separate resolution, as follows:

- A. A non-refundable application fee shall be submitted with each Special Event application. Applications received without the application fee will not be accepted. A Commercial Special Event sharing sponsorship with a Charitable Nonprofit Organization shall not be exempt from the application fee set forth in this subsection.
- B. If an Special Event application is approved by the Town Manager or the authorized designee for inclusion on the Special Event calendar, the applicant may be required to deposit with the Town an amount of money equal to the estimate of all non-permit fees submitted with the application as specified in Section 8-3-5(D)(17) of this Article. Local Charitable Nonprofit Organizations are exempt from non-permit fees except cleaning/damage deposits and rental fees, where applicable. The Town reserves the right to require Charitable Nonprofit Organizations to obtain services such as law enforcement, security, emergency medical, traffic engineering, etc. to ensure that public safety standards are met. This exemption does not apply to Commercial Special Events sharing sponsorship with Charitable Nonprofit Organizations.
  1. Deposits pursuant to this subsection shall be paid to the Town not later than 30 days prior to the Special Event. If the deposits and fees are not received within the specified time, the Special Event will be administratively removed from the calendar and the Special Event will be canceled.
  2. A post-Special Event Town expenditure review shall be conducted to determine the Town's actual Special Event-related expenses. Depending on the results of this review and subsequent reconciliation, the Town shall refund any monies received by the applicant in excess of the actual amount expended by the Town or shall invoice the applicant for any additional Town-incurred costs not covered by the estimated deposit.
- C. All Special Event Liquor License fees shall be submitted at the time of application for a Special Event.

(16-01, Amended, 08/18/2016; 11-13, Amended, 12/20/2011, Deleted and replaced; 09-08, Amended, 07/02/2009; 01-09, Added, 05/17/2001, Adopted)

**Section 8-3-7 Criteria for review and approval**

- A. The Special Event Committee shall make recommendations to the Town Manager regarding all Special Event applications. Special Event Committee recommendations must be completed and submitted to the Town Manager not less than 30 calendar days prior to the Special Event in order to be considered for scheduling on the Special Event calendar. In order to recommend approval of an application, the Special Event Committee shall include, at a minimum, findings that each of the following criteria has been met:
1. The Special Event is widely attended and supported by the Fountain Hills community.
  2. The conduct of the Special Event, including street closures, detours and/or disruptions, will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location or route.
  3. The nature, scope, location, and conduct of the Special Event are not reasonably likely to cause injury to persons or property or create a hazard to the health, safety and welfare of the public and the surrounding properties or land uses.
  4. The Special Event is consistent and/or compatible with community interests.
  5. The Special Event generates an economic impact for the Town of Fountain Hills to be used for community priorities.
  6. The Special Event application has been completed, all requirements therein have been satisfactorily met and application fees have been submitted to the Town.
  7. The conduct of the Special Event does not require the diversion of so great a number of Town staff to prevent normal service to the Town or of law enforcement officers to prevent normal law enforcement protection to the Town.
- B. The Town Manager shall approve, approve with stipulations or deny the Special Event request within 10 calendar days of receipt of an application from the Special Event Committee. In the event that the Town Manager does not approve, approves with stipulations or denies the Special Event within 10 calendar days of receipt of a recommendation, the Special Event application shall be deemed denied.
- C. An applicant whose Special Event request is denied by the Town Manager may appeal the decision according to the procedure set forth in Section 8-1-12 above.
- D. The Town in its sole direction, reserves the right to alter or cancel a Special Event permit after it has been issued, provided all license fees are returned to the applicant.
- E. If a Special Event includes alcoholic beverage service, the Special Event Liquor License application required by Article 8-5 below shall not be approved until after the Special Event is approved pursuant to this Section 8-3-7.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, 8-3-7 Heading revised was: Major Event Calendar; Deleted and replaced; 01-09, Added, 05/17/2001, Adopted)

**Section 8-3-8 Special Event calendar requirements**

The Town Manager or the authorized designee shall keep a calendar of all approved special events within each calendar year. The Special Events calendar shall be established according to the following process:

- A. Holiday Events and Grand-fathered Events shall automatically be scheduled on the Special Event calendar on their regularly-scheduled dates. Inclusion on the Special Event calendar does not exempt the Special Event Sponsor from submitting a complete Special Event application by the required 90-day deadline and receiving the required Special Event approval.
- B. Two or more separate Special Events may not occupy the same location on the same calendar day. Special Event organizers may coordinate and combine their Special Events and jointly file a Special Event application. Each separate organizer shall comply with all requirements of the Special Event application.

(16-01, Amended, 08/18/2016; 11-13, Amended, 11/03/2011, Heading revised was: Criteria for Staff Recommendation and Town Council Approval, Deleted and replaced; 01-09, Added, 05/17/2001, Adopted)

**Article 8-4**

**ADULT BUSINESS LICENSE REGULATIONS**

**Sections:**

- 8-4-1 Purpose**
- 8-4-2 License Required**
- 8-4-3 Issuance of License**
- 8-4-4 Fees**
- 8-4-5 Inspection**
- 8-4-6 Expiration of License**
- 8-4-7 Suspension**
- 8-4-8 Denial or Revocation**
- 8-4-9 Transfer of License**

**Section 8-4-1 Purpose**

For the purposes of this Article, the defined terms set forth in Chapter 21 of the Town of Fountain Hills Zoning Ordinance shall apply.

(16-01, Amended, 08/18/2016; 06-18, Added, 06/15/2006)

**Section 8-4-2 License Required**

- A. It is unlawful:
  - 1. For any Person to operate an adult business without a valid adult business license issued by the Town pursuant to this Code.
  - 2. For any Person who operates an adult business to employ a person to work for the adult business who is not licensed as an adult business employee by the Town pursuant to this Code.
  - 3. For any person to obtain employment with an adult business without having secured an adult business employee license pursuant to this Code.
- B. An application for a license must be made on forms provided by the Town.
- C. All applicants must be qualified according to the provisions of this Code. The applicant shall provide all material listed on the application and necessary to support the application, and the Town Manager or the authorized designee may request, and the applicant shall provide, such additional information, including applicant fingerprinting and background check, as to enable the Town to determine whether the applicant meets the qualifications established in this Code. The applicant shall pay the Town's reasonable costs and expenses associated with fingerprinting and background checks.
- D. A Person who wishes to operate an adult business must sign the application for a license as an applicant. If a Person other than an individual wishes to operate an adult business, all persons legally responsible for the operations of the sexually oriented business or who have power to

control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for an adult business license shall contain the following information and shall be accompanied by the following documents or information:

1. If the applicant is:
  - a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age.
  - b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.
  - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
2. If the applicant intends to operate the adult business under a name other than that of the applicant; he or she must state (a) the adult business's fictitious name and (b) submit the required registration documents.
3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Code, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
4. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar adult business ordinances from another city or county denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Code whose license has previously been denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. Whether the applicant or a person residing with the applicant holds any other licenses under this Code or other similar adult business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
6. The single classification of license for which the applicant is filing.
7. The location of the proposed adult business, including a legal description of the property, street address, and telephone number(s), if any.



8. The applicant's mailing address and residential address.
  9. A recent photograph of the applicant(s).
  10. The applicant's valid driver's license number.
  11. A floor plan or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The floor plan or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.
  12. A property survey prepared within 30 days prior to application by a registered land surveyor depicting the property lines of any established uses identified under Section 21-3 of the Fountain Hills Zoning Ordinance within the distances set forth in Section 21-3 in relation to the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  13. If an applicant wishes to operate an adult business, other than an adult motel, which intends to exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, electronic video media, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 21-5 of the Fountain Hills Zoning Ordinance.
- F. Before any applicant may be issued an adult business employee license, the applicant shall submit on a form to be provided by the Town the following information:
1. The applicant's name or any other name (including stage aliases used by the individual).
  2. A certified copy or original birth certificate showing date and place of birth as proof that individual is at least 18 years of age.
  3. Height, weight, hair and eye color.
  4. Present residence address and telephone number.
  5. Present business address and telephone number.
  6. Date, issuing state and number of driver's license or other identification card information.
- G. Attached to the application form for an adult business employee license as provided above, shall be the following:
1. A color photograph of the applicant taken within the last 60 days clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Town's law enforcement department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  2. A statement detailing the license history of the applicant for the 5 years immediately preceding the date of the filing of the application, including whether such applicant (a) previously operated or is seeking to operate, in this or any other county, city, state, or

country an adult business, (b) has ever had a license, permit, or authorization to do business denied, revoked, or suspended or (c) had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Code and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(16-01, Amended, 08/18/2016; 06-18, Added, 06/15/2006)

### **Section 8-4-3 Issuance of License**

- A. For an adult business employee license, the application shall be referred to the appropriate Town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 60 days from the date the completed application is filed. If the Town fails to approve or deny the license within 60 days after receipt of an application, the license shall be deemed to have been approved. After the investigation, the Town shall issue a license, unless it is determined by a preponderance of the evidence that at least one or more of the following findings is true:
  1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  2. The applicant is under the age of 18 years.
  3. The applicant has been convicted of a specified criminal activity as defined in this Code.
  4. The adult business employee license is to be used for employment in a business prohibited by federal, local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance.
  5. The applicant has had an adult business employee license revoked by the Town within two years of the date of the current application. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 8-4-8.
- B. A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this Code or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 8-4-4.
- C. Thirty days prior to the expiration of a license, an applicant must submit a completed adult business application for renewal. The Town shall approve the issuance of a renewed license to an applicant unless it is determined by a preponderance of the evidence that at least one of the following findings is true:

Fountain Hills Town Code

1. An applicant is under 18 years of age.
  2. An applicant or a person with whom the applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  4. An applicant or a person with whom the applicant is residing has been denied a license by the Town to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
  5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity as defined in this Code.
  6. The premises to be used for the adult business have not been approved by the Maricopa County health department, the Town fire department, and the Town building official as being in compliance with applicable laws and ordinances.
  7. The license fee required by this ordinance has not been paid.
  8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Code.
- D. The license, if granted shall state on its face the name of the Person or Persons to whom it is granted, the expiration date, the address of the adult business and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the adult business so that they may be easily read at any time.
- E. The Maricopa County health department, the Town fire department, and the Town building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Town.
- F. An adult business license shall issue for only one classification as found in Section 21-2 of the Fountain Hills Zoning Ordinance.
- G. If a permit is issued, the Town shall issue an identification card. The identification card shall include the name of the licensee, a photograph of the licensee, the number of the permit, and the dates of issuance and expiration.

(16-01, Amended, 08/18/2016; 06-18, Amended, 06/15/2006, added the text: nor pseudoephedrine and/or; 06-18, Added, 06/15/2006)

**Section 8-4-4 Fees**

- A. Every application for an adult business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee or such other fee as established by the Town Council as part of its annual budget or by separate resolution.

- B. In addition to the application and investigation fee required above, every adult business that is granted a license (new or renewal) shall pay to the Town an annual nonrefundable license fee upon license issuance or renewal or such other fee as established by the Town Council as part of its annual budget or by separate resolution.
- C. Every application for an adult business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application, investigation, and license fee or such other fee as established by the Town Council as part of its annual budget or by separate resolution.
- D. All license applications and fees shall be submitted to the Finance Director.  
(16-01, Amended, 09/19/2016; 06-18, Added, 06/15/2006)

#### **Section 8-4-5 Inspection**

- A. An applicant or licensee shall permit representatives of the Town Law Enforcement Department, Fire Department, Zoning Department, or other Town departments, agencies or agents to conduct lawful inspections of the premises of an adult business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates an adult business or his agent or employee commits a Class 1 misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.  
(16-01, Amended, 08/18/2016)

#### **Section 8-4-6 Expiration of License**

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 8-4-3. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration date of the license will not be affected. Any applicant whose license has expired must cease any activities permitted under the license until such time as a renewed license is issued.
- B. When the Town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.  
(16-01, Amended, 08/18/2016)

#### **Section 8-4-7 Suspension**

The Town shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has either (A) violated or is not in compliance with any Section of this ordinance or (B) refused to allow an inspection of the adult business premises as authorized by this Article.  
(16-01, Amended, 08/18/2016)

**Section 8-4-8 Denial or Revocation**

- A. The Town shall deny or revoke a license if a cause of suspension under Section 8-4-7 occurs twice within any 12-month period.
- B. The Town shall deny or revoke a license if it determines that any of the following have occurred:
  - 1. A licensee gave false or misleading information in the material submitted during the application process.
  - 2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.
  - 3. A licensee has knowingly allowed prostitution on the premises.
  - 4. A licensee knowingly operated the adult business during a period of time when the licensee's license was suspended or expired.
  - 5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises.
  - 6. A licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due.
- C. If the Town determines that grounds exist to deny or revoke a license under this Article, the Town shall notify the applicant, licensee in writing of the intent to deny or revoke, including the grounds therefore.
- D. Within 10 work days of receipt of such notice, the recipient may respond to the notice in writing, stating the reasons why the license should not be denied or revoked. If the Town does not receive a response in the time required, the Town's notice shall be the final administrative action of denial or revocation. The Town shall send an additional notice to confirm the denial or revocation notice within five business days after the time to respond expires.
- E. If the Town receives a response, within 15 business days of receipt, the Town shall either (1) notify the applicant, or licensee of the Town's withdrawal of the intent to deny or revoke or (2) notify the applicant, or licensee of the date, time and place for a hearing in a manner consistent with Section 8-1-12(B) – (D) above before a hearing officer appointed by the Town Manager or the authorized designee.
- F. If the Town fails to send a timely notification either withdrawing the intent to deny or revoke or scheduling a hearing, a decision in favor of the applicant or licensee is deemed made.
- G. The hearing shall be conducted not less than 15 or more than 20 business days after the Town's receipt of the response.
- H. If the hearing officer finds no grounds to deny the license, the Town shall issue the license. If the hearing officer finds no grounds to revoke the license, the Town shall withdraw the intent to

revoke and deem the license valid. The Town shall take action required under this subsection within five business days of the hearing officer's written decision.

- I. In the case of an intent to deny or revoke a license, the licensee may continue to operate for 15 days after the decision becomes final. The decision shall be deemed final at the end of five business days after it is mailed and shall constitute a final administrative action.
- J. All notices under this Section shall be sent by certified mail to the applicant or licensee's address on file with the Town.
- K. When the Town revokes a license, the revocation shall continue for one year, and the licensee shall not be issued an adult business license for one year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(16-01, Amended, 08/18/2016)

#### **Section 8-4-9 Transfer of License**

A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult business under the authority of a license at any place other than the address designated in the application.

(16-01, Amended, 08/18/2016)

**Article 8-5**

**SPECIAL EVENT LIQUOR LICENSES**

**Sections:**

- 8-5-1 Purpose**
- 8-5-2 License Required**
- 8-5-3 Application; Review; Conditions**

**Section 8-5-1 Purpose**

Alcoholic beverages may only be permitted at a Special Event if approved by both the Town Council and the Director of the Arizona Department of Liquor Licensing and Control as set forth in this Article and Ariz. Rev. Stat. § 4-203.02, as amended. Sponsors seeking approval by the Town Council shall adhere to the requirements set forth in this Article and Ariz. Rev. Stat. § 4-203.02, as amended. For the purposes of this Article, the defined terms set forth in Article 8-3 above shall apply.

(16-01, Amended, 08/18/2016; 07-09, Added, 10/18/2007, Adopted)

**Section 8-5-2 License Required**

In addition to other penalties provided by applicable law, it is violation of this Article to serve alcohol in an area not licensed by the Arizona Department of Liquor Licensing and Control without first obtaining a Special Event Liquor License pursuant to this Article.

(16-01, Amended, 08/18/2016; 07-09, Added, 10/18/2007, Adopted)

**Section 8-5-3 Application; Review; Conditions**

The following conditions shall be met in order to obtain Town Council approval of a Special Event Liquor License.

- A. A complete Special Event Permit Application pursuant to Article 8-3 of this Code, including all applicable Town fees, must be submitted prior to or in conjunction with a Special Event Liquor License application under this Article. A Special Event Liquor License application will not be approved until the related Special Event has been approved by the Special Event Committee and the Town Manager or the authorized designee and/or the Town Council as set forth in Section 8-3-7 of this Code. All Special Event Liquor License applications must be submitted in complete form, including all attachments and fees, at least 90 days before the Special Event date. If there are multiple Special Event Liquor License applications affiliated with one Special Event, all such applications must be submitted as a complete packet for review at one time.
- B. It is the Special Event Sponsor's responsibility to obtain any information required to complete the application. An incomplete application will be returned.
- C. Every application shall be accompanied by the appropriate application fee in an amount set forth in the Town's fee schedule, as adopted by the Town Council as part of the Town's annual budget or by separate resolution.
- D. Previous violations by the Sponsor of this Code or a Special Event Liquor License may impact the Town's recommendation for future permits.

- E. Those serving liquor must meet all requirements of the Arizona Department of Liquor Licensing and Control.
- F. Security Requirements.
  - 1. The Special Event Liquor License Sponsor must provide a plan for security during liquor sales, including methods for ensuring alcohol does not leave the area covered by the Special Event Liquor License. A Special Event layout indicating ingress/egress points, security, fencing, etc., must be included with the application. The Town Manager or the authorized designee will establish minimum security requirements for Special Events with alcoholic beverage service. The Maricopa County Sheriff's Office will determine whether the Town Manager's minimum security requirements or whether additional security personnel are required. The Town Manager or the authorized designee shall approve or deny all security plans for Special Event Liquor Licenses after receiving a security recommendation from the Maricopa County Sheriff's Office.
  - 2. The Sponsor shall ensure the Special Event venue is set up according to the layout approved by the Town Manger or the authorized designee. The Special Event may be closed if any significant deviation from the approved plan is not remedied after a demand for compliance by the Town Manager or the authorized designee.
  - 3. Required security personnel must be on-site from the time liquor service begins until all event patrons have cleared the designated area.
  - 4. Security personnel must be deployed in a manner that prevents alcohol from leaving designated areas.
  - 5. The Special Event Liquor License applicant shall immediately notify the Town Manager or the authorized designee if conditions change after issuance of the Special Event Liquor License. In the event of such notice, the Town will evaluate the changes and determine if additional security measures are warranted. If warranted, the applicant shall provide such additional security measures at its sole expense.
- G. Only the vendor or authorized designee holding the approved Special Event Liquor License is allowed to bring alcohol into the Special Event. There must be a designated bartender responsible for serving the alcohol at all times. At no time are guests allowed to bring in their own alcohol.
- H. Consumption of alcohol by any service staff or volunteers while on duty is strictly prohibited. Upon completion of shift or service hours, staff or volunteers must remove any indicators that identify them as staff or volunteers, such as badges, uniforms, event apparel (t-shirt, hat, etc.) in order to consume alcohol on the Special Event premises.
- I. Sponsors shall ensure conformance with all state and local laws governing the serving and consumption of beer, wine and spirits.
- J. Sponsors or their authorized designees are required to have all proper mechanisms in place to prevent under age consumption.

(16-01, Amended, 08/18/2016; 07-09, Added, 10/18/2007, Adopted)